

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Chun He, et al.
Title: Compact wavelength multiplexer/demultiplexer and method for making the same
Serial No.: 10/618,272
Confirmation No.: 4842
Filing Date: 07/11/2003
Examiner: Ricky Levern Mack
Group Art Unit: 2873
Docket No.: 2107-26

June 1, 2006

Mail Stop: Petition
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Petition to Withdraw the Holding of Abandonment

(Based on failure to receive Office Action)

Dear Sir:

Mr. Examiner Scott Sugarman of Art Unit 2873 left the undersigned a telephone message on May 27, 2006, inquiring a status of an office action that has not been responded to and now is over 6 month outstanding. Presumably, the above-identified case is abandoned.

Upon receiving the message, the undersigned checked the record and noticed that a latest recorded Office Action was dated 6/15/2005 and a Response thereto was filed 8/14/2005. Immediately, the undersigned faxed a copy of the Response with a Fax Auto-Reply page from USPTO to the private fax number of the Examiner, and at the same time, left a message for the Examiner, indicating the Response was faxed.

On May 30, 2006 (Monday), the Examiner and the undersigned had a conversation regarding the case. The Examiner indicated that the faxed Response would be forwarded to the original Examiner. In the late evening of May 30, 2006,

however, the Examiner called the undersigned again and indicated that there was another Office Action (for restriction requirement) dated 10/25/2006 that was actually never responded to. The undersigned immediately logged onto PAIR system, noticed and downloaded such an Office Action.

This is to request to withdraw holding of abandonment based on failure to timely file a proper reply to the Office Action mailed over 6 months ago. The missing Office Action became aware to the undersigned only when another call from the Examiner was received informing the missing Office Action.

The Petitioner hereby requests the Commissioner to consider the withdrawal of the holding of abandonment of the above referenced application in view of the following facts and remarks.

1. The Petitioner and the Office thereof has never received such Office Action;
2. A through search of the Office Action has been performed by the undersigned as well as his assistant right after the phone call from the Examiner. For a period of time, no trace of such Office Action could have been found anywhere including the database recording all cases under the care of the undersigned and the office desks thereof.

The undersigned hereby states he has personally searched all places in his office that may hold mails, either from his clients or from the USPTO, and failed to locate such Office Action.

3. A patent database tracking system is used to track all cases under the care of the undersigned. Exhibit 1A shows a first page of a record of an issued case US Pat. No. 6,560,378 for the same assignee that was also examined in the Art Unit 2874. The record further shows two consecutive pages Exhibit 1B-1C respectively recording two separate transactions with the USPTO, including the mailing date of an office action, the date such office action was actually received, a due date, an extended due date and the date a response thereto is filed.

Exhibit 2A shows the first page of the record for the above referenced case. Exhibit 2B shows that a first Office Action dated 6/15/2005 was received on 6/15/2005. The patent database tracking system enters

automatically a three-month deadline and a six-month deadline based on the mailing date (these deadlines can be manually adjusted based on the nature of the Office Action). A Response to the Office Action was filed 8/14/2005. Exhibit 2B also indicates that the Response was filed by fax and a confirmation thereof was received. An arrow ">" in the upper left corner, if clicked, goes to a next screen. However, Exhibit 2C shows that there is no more office action for this case.

It is a practice in the office of the undersigned that, whenever a correspondence is received, an entry is made to the database that will automatically flash out a reminder when a due date is within a month. Exhibit 2C shows no Office Action was ever received for this case. Further, it can be believed that the undersigned would not fail to respond to such an Office Action requiring an election as a first non-final Office Action was already responded to.

It is believed that the above statements and the enclosed information are sufficient to support that fact that an Office Action dated 10/25/2005 was never received. The undersigned respectfully requests that the Petition be granted. A Response to the missing Office Action is enclosed herewith. Should there be any questions, the undersigned can be reached at (408)777-8873.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to "Commissioner of Patents and Trademarks, Washington, DC 20231", on June 1, 2006.

Signature: /s joe zheng s/
Joe Zheng

Respectfully submitted

/s joe zheng s/
Joe Zheng
Reg. No.: 39,450

U.S. Patent Case (Record Locked to allow your updates)

Record Other Screens Save Contact Forms Help

Case Management: Partner: Assoc: Secty:

Application Type:
☐ Provisional ☐ Design
☒ Utility ☐ Plant
☐ PCT 371 ☐ ReExam
☐ Reissue

Docket No: Client: List:

App Serial No: Filing Date: Status:

Title:

Date Issued: Patent No: Patent Expiration Date:

Cl Doc: ☐ Exp Date Adjusted

Reminder List for this Case

Item	Who	Due Date
Receive & Review PTA of Issued Patent	JOE	6/5/2003
Send Client Reminder for 3.5 Year Maintenance Fee	JOE	8/6/2006
3.5 Year Maintenance Fee Due	JOE	11/6/2006

There are 3 Reminder Items for this Case

Priority Case: Priority Date:

FIG. 1A

Office Action (Record Locked to allow your updates)

Record Save References Reminders Electronic Files Forms Help

Docket No:
 Country:

ex Parte Quale ☐
 Date Mailed:

Restriction Req. ☐
 Date Received:

Final ☐
 Date Due:

Received Conf. ☒
 Last Date to File:

Response ☒
 Date Sent/Abandoned:

Faxed/Emailed ☒
 Date Received in Patent Office:

Examiner:

Name:

Phone:

Fax:

Art Unit / Office:

Faxed to

Notes:

Type of Amendment/Response:

☒ Amendment/Remarks

☐ CPA

☐ RCE

☐ Appeal

☐ Preliminary Amendment

Advisory Action:

☐ Expected

☐ Received

☐ Continue to Show Last Date to File Reminder

FIG. 1B

Office Action (Record Locked to allow your updates)

Record Save References Reminders Electronic Files Forms Help

Docket No:
 Country:

ex Parte Quale ☐
 Date Mailed:

Restriction Req. ☐
 Date Received:

Final ☐
 Date Due:

Received Postcard ☒
 Last Date to File:

Response ☐
 Date Sent/Abandoned:

Faxed/Emailed ☐
 Date Received in Patent Office:

Examiner:

 Name:

 Phone:

 Fax:

 Art Unit / Office:

Notes:

Type of Amendment/Response:

☒ Amendment/Remarks

☐ Preliminary Amendment

☐ CPA

☐ RCE

☐ Appeal

Advisory Action:

☐ Expected

☐ Received

☐ Continue to Show Last Date to File Reminder

FIG. 1C

U.S. Patent Case (Record Locked to allow your updates)

Record Other Screens Save Contact Forms Help

Case Management

Partner: Assoc: Secty:

Application Type

☐ Provisional ☐ Design
☒ Utility ☐ Plant
☐ PCT 371 ☐ ReExam
☐ Reissue

Docket No: Client: List:

App Serial No: Filing Date: Status:

Title:

Date Iss/Abn: Patent No: Patent Expiration Date:

Cli Doc: ☐ Exp Date Adjusted

Reminder List for this Case

Item	Who	Due Date

There are no Reminder Items for this Case

Priority Case: Priority Date: 10/15/2003 JOE

FIG. 2A

Office Action (Record Locked to allow your updates)

Record Save References Reminders Electronic Files Forms Help

Docket No: Country:

ex Parte Quale ☐ Date Mailed: Examiner:

Restriction Req. ☐ Date Received: Name:

Final ☐ Date Due: Phone:

Received Conf. ☒ Last Date to File: Fax:

Response ☒ Date Sent/Abandoned: Art Unit / Office:

Faxed/Emailed ☒ Date Received in Patent Office:

Notes:

Type of Amendment/Response:
 ☒ Amendment/Remarks
 ☐ CPA
 ☐ RCE
 ☐ Appeal

☐ Preliminary Amendment

Advisory Action:
 ☐ Expected
 ☐ Received

☐ Continue to Show Last Date to File Reminder

FIG. 2B

FIG. 2C

FIG. 2C